

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

November 14, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 08HD-160

HAWAII

Issuance of Revocable Permit to Puako Bay Investors LLC, Lalamilo, South Kohala, Hawaii, Tax Map Key: 3rd/ 6-9-01: portion of 15.

APPLICANT:

Puako Bay Investors LLC, a domestic limited liability company, whose business and mailing address is 2530 Kekaa Drive, Suite C-1, Kaanapali, Hawaii 96761.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Puako, situated at Lalamilo, South Kohala, Hawaii, identified by Tax Map Key: 3rd/ 6-9-01: portion of 15, as shown on the attached map labeled Exhibit A.

AREA:

.207 acres or 9,000 square feet, more or less.

ZONING:

State Land Use District:	Conservation/ Urban
County of Hawaii CZO:	Agriculture/ Resort

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

BLNR-Issuance of RP
to Puako Bay Investors LLC
TMK: 3rd/ 6-9-01: portion of 15

November 14, 2008

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:
YES _____ NO X

CURRENT USE STATUS:

540.025 acres	Vacant/ unencumbered
5.000 acres	Encumbered by Revocable Permit No. S-7404, to Richard Spiegel, dba: Volcano Island Honey Company, L.L.C., for apiary operation purposes.

CHARACTER OF USE:

Landscaping and maintenance purposes.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

\$74.00 per month, based on staff appraisal dated October 31, 2008, attached as Exhibit B.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change in use beyond that previously existing," and Class No. 4, which states, "Minor alteration in the conditions of land, water, or vegetation."

DCCA VERIFICATION:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

REMARKS:

The subject parcel, identified as TMK: 3rd/ 6-9-01:15, originally consisted of 775.083 acres, encumbered under General Lease No. S-4141, to Signal Oil and Gas Company. This 25-year lease, issued through a public auction, was effective February 23, 1968 and expired on February 22, 1993.

On December 31, 1969, General Lease No. S-4141 was assigned from Signal Companies, Inc., a Delaware corporation, to Signal Properties, Inc., a California corporation. On October 8, 1973, the lease was then assigned to Orchid Island Resorts Corporation, the corporate predecessor of Mauna Lani Resort, Inc..

At its meeting of August 22, 1986, Item F-3, the Board of Land and Natural Resources approved the partial withdrawal of 230.067 acres from General Lease No. S-4141 and the subdivision of the entire 775.083 acre parcel into two separate parcels. Parcel 15 to consist of 545.025 acres, and Parcel 17 to consist of the remaining 230.067 acres.

In constructing the Kawaihae-Puako Beach Road, a remnant parcel was inadvertently created out from Parcel 15 of TMK: 3rd/ 6-9-01. This remnant parcel, a triangular piece, consists of approximately 9,000 square feet, located makai of the Kawaihae-Puako Beach Road fronting the Applicant's property. This portion of Parcel 15 appears to be within the State Land Use Urban District, with the remaining portions located mauka of the Kawaihae-Puako Road being within the Conservation District, General Subzone. As a result, no special permits should be required from the Office of Conservation and Coastal Lands for its proposed use.

At its meeting of January 14, 2005, under Agenda Item D-18, the Land Board approved the issuance of Revocable Permit No. S-7404 to Richard Spiegel, dba: Volcano Island Honey Company for apiary operation purposes. The revocable permit area consists of five (5) acres.

At its meeting of September 26, 2008, Item D-4, the Land Board approved the issuance of a revocable permit to Richard Spiegel for apiary purposes. The revocable permit area consists of an additional two 2-acre plots.

The proposed use is allowable in the county zoning, which is Resort/Agriculture.

Puako Bay Investors LLC, has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

To date, there have not been any applicants requesting the same parcel.

Although there are no immediate plans for the area, a month-to-month tenancy is being recommended as staff is compelled to keep the area open and available for possible alternate uses.

Various governmental agencies were solicited for comments.

AGENCY	COMMENTS
County of Hawaii:	
Fire Department	No comments
Planning Department	** See comment below **
Police Department	No response
Public Works	No comments
State of Hawaii:	
DLNR- DOBOR	No objections
DLNR- DOCARE	No response
DLNR- DOFAW	No response
DLNR- Historic Preservation	No objections
DLNR- Na Ala Hele	No response
DLNR- OCCL	**See comments below **
DLNR- State Parks	No comments
DOT-Highways Division	No response
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	No response
Puako Community Association	**See comments below **

The County of Hawaii, Planning Department commented that the subject area is designated as Resort-Hotel under county zoning and is within the Special Management Area, which requires SMA review for the proposed use.

The Office of Conservation and Coastal Lands has no objections to the request and comments that the area of interest, a portion of Parcel 15, appears to be within the State Land Use Urban District. As a result, no special permit is required.

The Puako Community Association had no objections, but requests that Applicant exercise extreme caution in the importation of plant material to the State-owned and private property, to prevent the inadvertent introduction of coqui frogs.

November 14, 2008

RECOMMENDATION: That the Board:

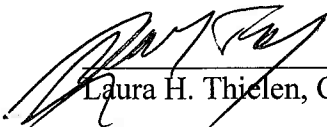
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a revocable permit to Puako Bay Investors LLC, covering the subject area for landscaping purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - b. That Permittee consult with the County of Hawaii, Planning Department, for any special permits required for proposed use of lands within the County's Special Management Area;
 - c. Review and approval by the Department of the Attorney General; and
 - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



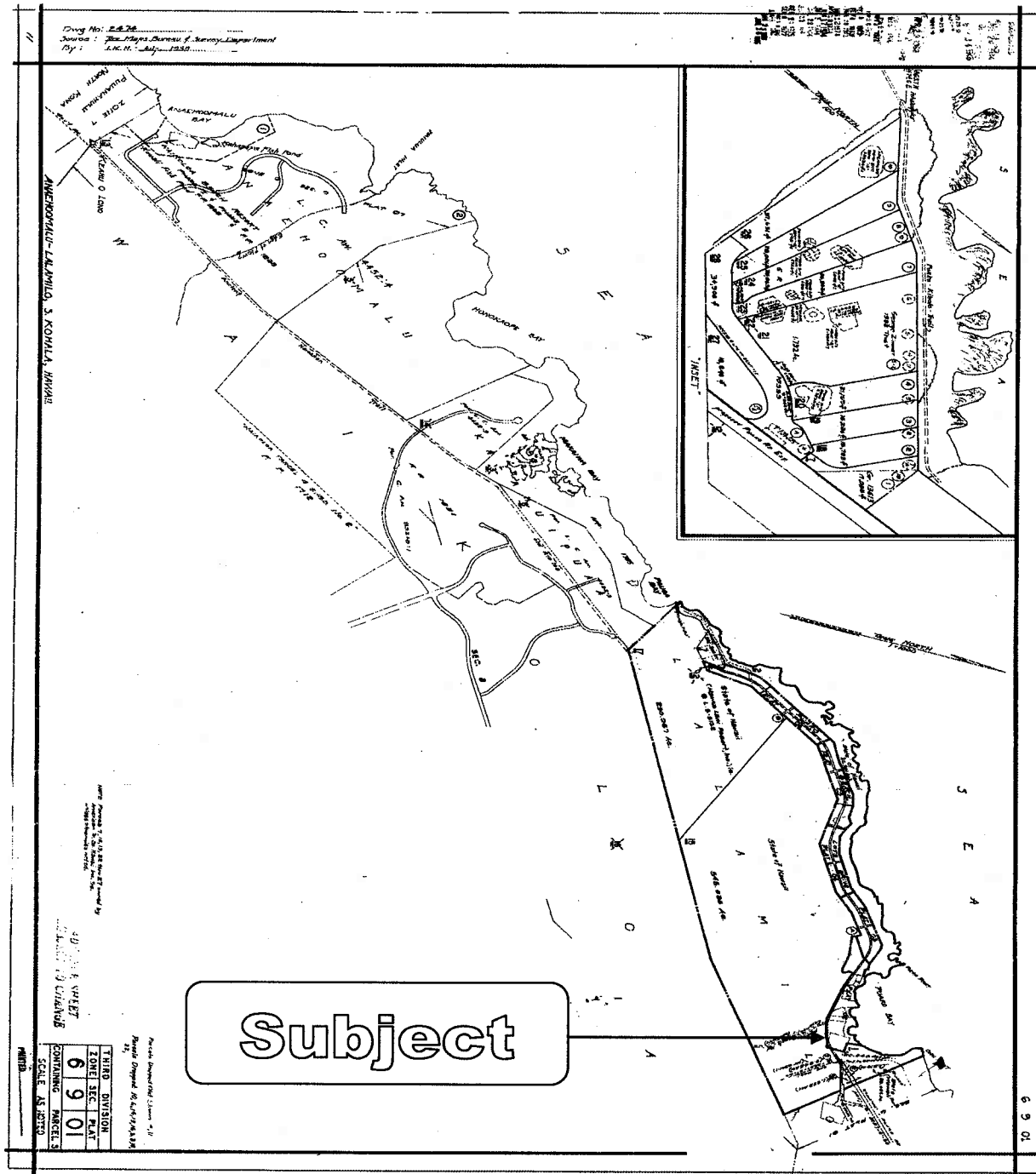
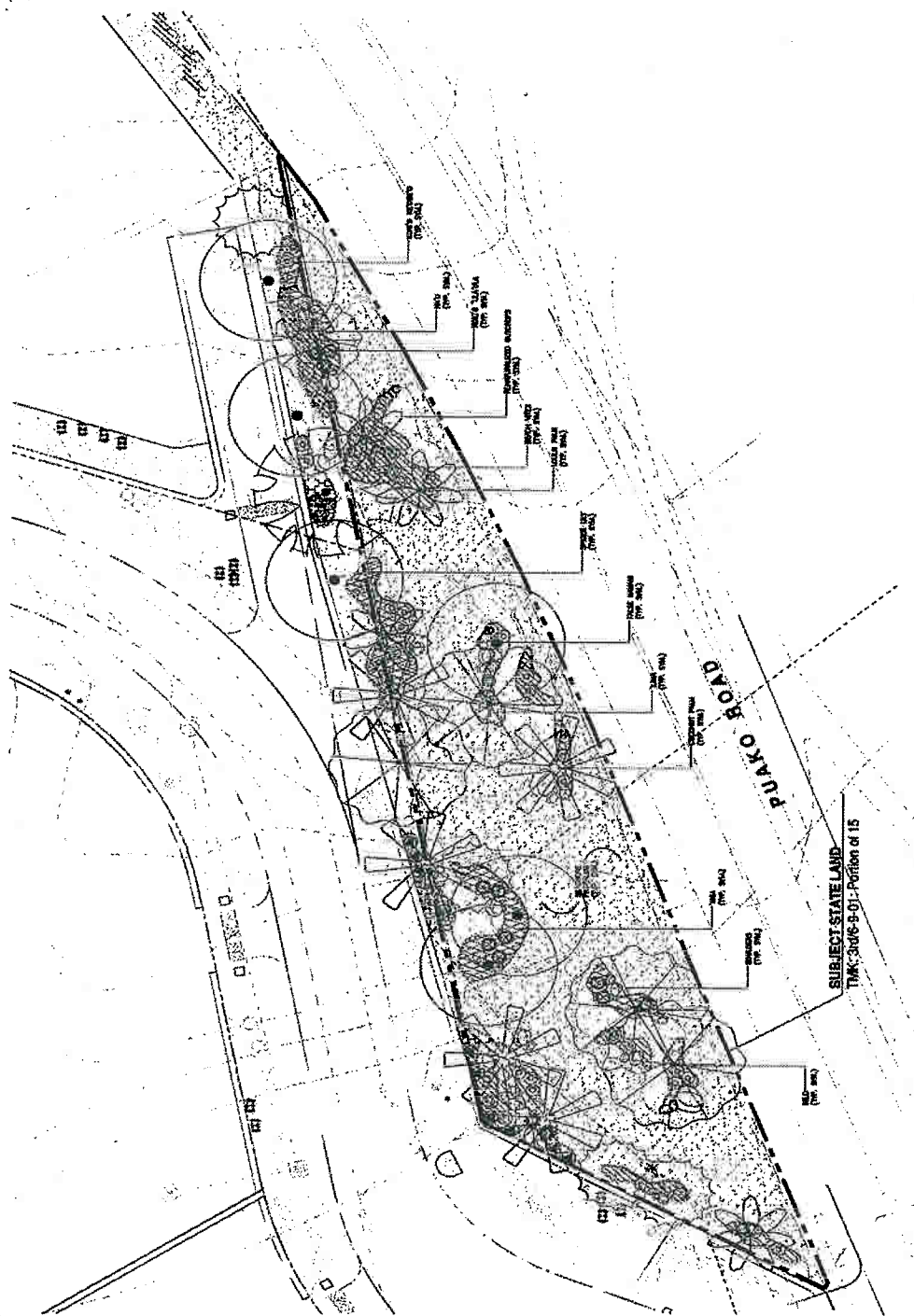


EXHIBIT A



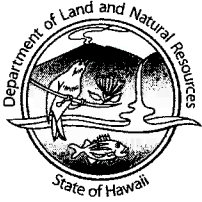
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ATTACHMENT C
Puako Subdivision - Planting Plan

EXHIBIT A



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 31, 2008

MEMORANDUM

TO: Laura H. Thielen, Chairperson

THROUGH: *JP* Morris M. Atta, Land Division Administrator

FROM: Cyrus C. Chen, Real Estate Appraisal Manager *Charles E. Under*
Cyrus Chen

SUBJECT: In-House Valuation Recommendation – Revocable Permit for Landscaping and Maintenance Purposes

PSF No.: 08HD-160
Applicant: Puako Bay Investors
Location: Lalamilo, South Kohala, Hawaii
Land Area: 9,000 sq. ft.
Tax Map Key: (3) 6-9-01: 15 por.
Char. of Use: Landscaping and maintenance

We have been requested to provide a monthly rent amount for the issuance of a revocable permit for landscaping and maintenance purposes on the above-referenced property. This rent amount will be included in staff's submittal to the Board for approval of this permit and will not be effective unless such approval is received.

The subject is a portion of parcel 15 consisting of 545.025 acres and is zoned Agriculture and within the Conservation District. According to Hawaii District Land Office, the subject remnant portion is within the Urban classification. The applicants plan to develop a small subdivision on their adjacent parcels. Other landscaping permits have been valued using the tax assessed values. However, the subject is a portion of much larger parcel and the assessed values would not accurately reflect land value due to the size differential.

Research revealed one other landscaping permit on the West side of the Big Island, which was issued on 1983. Based on this permit, we calculate the monthly rent as follows:

<u>Doc. No.</u>	<u>Rent</u>	<u>Area (sq. ft.)</u>	<u>\$/sf</u>
RP No. S-6056	\$2,256	22,942	\$0.098
x 9,000 sf			\$885.01

EXHIBIT "B"

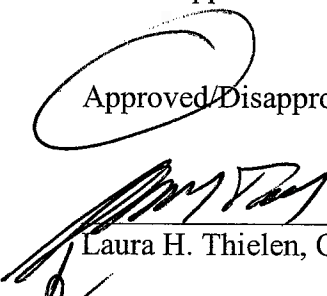
= Annual Rent	\$885 (rounded)
÷ 12 months = Monthly Rent	\$73.75
Rounded to	\$74

Therefore, as of the date of this document, the proposed monthly market rent for the revocable permit to the applicant is recommended to be \$74 per month.

Special Assumptions and Limiting Conditions

- 1) This document does not take the place of an appraisal and does not constitute an appraisal, which adheres to the Uniform Standards of Professional Appraisal Practice.
- 2) Neither the subject property nor the comparable has been inspected by the staff appraiser.

Approved/Disapproved:



Laura H. Thielen, Chairperson



Date

cc: District Branch Files
Central Files